

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

IN THE MATTER OF:

Preservation Aviation Site  
North Hollywood, Los Angeles County,  
California

Preservation Aviation, Inc.,

Jeffrey Pearson,

Riverton Properties, Inc.,

and

Joan W. Gregg Revocable Trust,

Respondents

UNILATERAL ADMINISTRATIVE  
ORDER FOR REMOVAL RESPONSE  
ACTIVITIES

U.S. EPA Region

CERCLA

Docket No. 9-2004-0030

Proceeding Under Section 106(a) of the  
Comprehensive Environmental Response,  
Compensation, and Liability Act, as  
amended, 42 U.S.C. § 9606(a)

**I. JURISDICTION AND GENERAL PROVISIONS**

1. This Unilateral Administrative Order ("Order") is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, and the Small Business Liability Relief and Brownfields Revitalization Act of 2002 ("CERCLA"). The President delegated this authority to the Administrator of the United States Environmental Protection Agency ("EPA" or "Agency") by Executive Order 12580, January 23, 1987, 52 Fed. Reg. 2923, and further delegated it to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B. This authority has been duly redelegated to the Branch Chief, Superfund Division, EPA Region 9 ("Branch Chief"), by delegation dated November 16, 2001.

2. This Order pertains to property located at 10800 Burbank Boulevard and 5543 Riverton Avenue in North Hollywood, Los Angeles County, California, the "Preservation Aviation Site" or the "Site." This Order requires the Respondents to conduct removal actions described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

3. EPA has notified the State of California of this action pursuant to section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

## **II. PARTIES BOUND**

4. This Order applies to and is binding upon Respondents and Respondents' heirs, directors, officers, employees, agents, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents including, but not limited to, any transfer of assets or real or personal property shall in no way alter Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

5. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondents shall be responsible for any noncompliance with this Order.

6. Any Respondent and successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice to EPA of the proposed conveyance, including the name and address of the transferee. The party conveying such an interest shall require that the transferee comply with Paragraphs 27 and 28, Access to Property and Information.

## **III. DEFINITIONS**

7. Unless otherwise expressly provided herein, the terms used in this Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Order, or in the exhibits attached hereto and incorporated hereunder, the following definitions shall apply:

a. "Days" shall mean consecutive calendar days unless expressly stated otherwise.

b. "Working days" shall mean consecutive calendar days other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 and by the Small Business Liability Relief and Brownfields Revitalization Act of 2002, 42 U.S.C. § 9601 et seq.

d. "Unilateral Order" or "Order" shall mean this Unilateral Administrative Order, EPA docket number 9-2004-0030.

- e. "Effective Date" shall be the date established in Section XX of this Order.
- f. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.
- g. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300.
- h. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.
- i. "Response Action" shall be those specific work items Respondents are required to perform at the Site pursuant to this Order and the attached Scope of Work.
- j. "Respondents" shall mean, both individually and collectively, Preservation Aviation, Inc., Jeffrey Pearson, Riverton Properties, Inc., and the Joan W. Gregg Revocable Trust.
- k. "Section" shall mean a portion of this Order identified by a Roman numeral, unless otherwise stated.
- l. "Site" shall mean the former Preservation Aviation facility located at 10800 Burbank Boulevard and 5543 Riverton Avenue in North Hollywood, Los Angeles County, California.
- m. "State" shall mean the state of California, and all of its political subdivisions, including the Department of Health Services ("CA DHS").
- n. "United States" shall mean the United States of America.

#### **IV. FINDINGS OF FACT**

8. The Preservation Aviation Site is located at 10800 Burbank Boulevard and 5543 Riverton Avenue in North Hollywood, Los Angeles County, California. Prior operations at the Site include the purchasing and selling of antique aircraft instruments, specifically aircraft gauges. The surrounding land use is light industrial and residential. There are single and multiple occupancy residential dwellings east of the Site and across Riverton Avenue. The Site is otherwise surrounded by light industrial businesses.

a. The Site property is currently owned by Riverton Properties, Inc. Joan W. Gregg is the President of Riverton Properties, Inc.

b. The Joan W. Gregg Revocable Trust was a prior owner of the Site from December 20, 1991, to August 30, 2001.

c. Pen Air Parts, Inc. operated at the Site from 1957 through 1996 as a buyer and

seller of antique aircraft instruments. In 1996, Preservation Aviation, Inc., purchased the inventory from Pen Air Parts, Inc., and continued its operations until February 2001.

d. In October 1998, the Los Angeles County Department of Health Services, Radiation Management ("LA DHS") and the CA DHS conducted an investigation at the Site. During this investigation, the agencies found radioactive contamination throughout the facility. Further, the facility lacked the required license to store radioactive materials.

e. On February 8, 1999, CA DHS issued a Cease and Desist Order to Preservation Aviation, Inc., requiring the operator to cease business operations and clean up the facility. On February 2, 2001, CA DHS issued its second order, "Order to Cease to Use or Occupy Premises." Preservation Aviation, Inc. did cease operations in 2001, but it has failed to respond to hazardous substances on-Site.

f. On May 18, 2004, EPA conducted an assessment of the Site. The assessment indicated a very large amount of gauges (in excess of 1,000,000), instruments, electronic equipment and assorted debris located throughout the north building (the building located at 10800 Burbank Boulevard) and adjacent storage yard that contain or have been contaminated by radium. Mercury manometers and compressed gas cylinders with unknown contents also were observed on-Site. Some electrical equipment at the Site appear to contain poly-chlorinated biphenyl materials ("PCBs").

g. Based on EPA's assessment, up to 70% of the gauges either contain radium paint or are externally contaminated with radium or its decay progeny. Radium-226, a solid substance, continually decays into radon-222, a gas. Radium decay and alpha recoil, the process by which fixed and removable radiation contamination occurred in the surrounding structures, are constant and unstoppable processes. During the Site assessment, EPA measured wipe samples to contain removable radium alpha particle contamination at five to 1,697 doses per minute/100 square centimeters ("dpm/100 cm<sup>2</sup>") and beta particle contamination at 104 to 3046 dpm/100 cm<sup>2</sup>, exceeding respective action levels for unrestricted environments of 20 dpm/100 cm<sup>2</sup> and 200 dpm/100 cm<sup>2</sup>. EPA also measured radiation contamination of the indoor air, finding seventy-five pico Curies per liter of air (pCi/l), almost twenty times higher than the applicable action levels of 4 pCi/L. EPA's assessment of the Site is stated in more detail in the attached document, *\$2 Million Statutory Exemption Request for an Emergency Removal Action at the Preservation Aviation Site, North Hollywood, Los Angeles County, California*.

h. Based on the findings of the Site assessment, EPA determined that the conditions at the Site presented an imminent and substantial endangerment to human health and the environment. On May 26, 2004, the EPA On Scene Coordinator ("OSC") Robert Wise initiated an emergency removal action to stabilize and secure the Site.

i. Radium-226 and radon-222 are carcinogens. Mercury poses threats through inhalation and ingestion that can result in neurological, kidney, and liver damage, and behavior and learning problems. PCBs are a suspected carcinogen and present toxic threats through direct contact and ingestion. Radium-226, radon-222, mercury, and PCBs are hazardous substances

under section 101(14) of CERCLA.

j. The administrative record supporting this action is available for review at the EPA Region 9 offices located at 75 Hawthorne Street, San Francisco, California.

## **V. CONCLUSIONS OF LAW AND DETERMINATIONS**

9. Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

a. The Preservation Aviation Site is a "facility" as defined by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contaminants found at the Site, including, but not limited to, radium-226, radon-222, mercury, and PCBs, are "hazardous substance(s)" as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Each Respondent is a "person" as defined by section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. Each Respondent is liable under section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

e. Respondents Preservation Aviation, Inc. and Jeffrey Pearson were the "operators" of the facility, as defined by section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of section 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2).

f. Respondent Riverton Properties, Inc. is the "owner" of the facility, as defined by section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of section 107(a)(1) of CERCLA, 42 U.S.C. Section 9607(a)(1).

g. Respondent The Joan W. Gregg Revocable Trust was the "owner" of the facility at the time of disposal, as defined by section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of section 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2).

h. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the facility as defined by section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

i. The conditions at the Site constitute a threat to public health or welfare or the environment based on consideration of the factors stated in the NCP at 40 C.F.R. § 300.415(b).

j. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the

environment within the meaning of section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

k. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are not inconsistent with the NCP and CERCLA.

## **VI. ORDER**

10. Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondents comply with the following provisions, including, but not limited to, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order, and perform the following actions:

### **11. Notice of Intent to Comply**

Each Respondent shall notify EPA OSC Robert Wise within 48 hours after the effective date of this Order of Respondent's irrevocable intent to comply with this Order. The Notice of Intent to Comply may be given verbally but shall be followed by written confirmation. Failure of any Respondent to provide such notification within this time period shall be a violation of this Order by such Respondent.

### **12. Designation of Contractor, Project Coordinator, and On-Scene Coordinator**

Respondents shall retain a contractor qualified to perform the removal action. Respondents shall notify EPA of the name and qualifications of such contractor within three (3) business days after Respondents provide financial assurance under Section IX of this Order. The proposed contractor must be in compliance with the following:

- 1) health and safety requirements pursuant to 29 C.F.R. § 1910.120(b);
- 2) requirements provided within 29 C.F.R. § 1910.120(e)(3);
- 3) medical surveillance requirements pursuant to 29 C.F.R. § 1910.120(f); and
- 4) respiratory protection program.

Respondents shall also notify EPA of the name and qualifications of any other contractor(s) or subcontractor(s) retained to perform the removal action under this Order at least one (1) day prior to commencement of such removal action. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondents. If EPA disapproves of a selected contractor, Respondents shall retain a different contractor and shall notify EPA of that contractor's name and qualifications within one (1) business day following EPA's disapproval.

13. Within three (3) business days after Respondents provide financial assurance under Section IX of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order. Respondents shall submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If EPA disapproves of a selected Project Coordinator, Respondents shall

retain a different Project Coordinator and shall notify EPA of that person's name and qualifications within one (1) business day following EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by all Respondents.

14. The EPA has designated Robert Wise of the Region 9 Emergency Response Section as its OSC. Respondents shall direct all submissions required by this Order and the attached Scope of Work to the OSC at:

Robert Wise, OSC  
2250 Obispo Ave., Suite 101  
Signal Hill, CA 90755  
818-623-0355  
wise.robert@epa.gov

15. Work to Be Performed

Respondents shall perform, at a minimum, all actions identified in the attached Scope of Work. The actions to be implemented generally include, but are not limited to, the following:

a. Phase One Work. Phase One Work includes identification, characterization, segregation and disposal of hazardous substances found in the unpaved yard between the north building located at 10800 Burbank Boulevard on the northern side of the facility and the south building located at 5543 Riverton Avenue on the southern side of the facility. This phase will also identify, characterize, segregate and dispose of hazardous substances found within the semi-trailer and shed located in the unpaved yard.

b. Phase Two Work. Phase Two Work includes identification, characterization, segregation and disposal of hazardous substances found within the north building. This work also includes decontaminating the structure. If decontamination is not feasible, the building will be demolished.

c. Phase Three Work. Phase Three Work includes identification, characterization, segregation and disposal of hazardous substances found within the south building. This work also includes decontaminating the structure. If decontamination is not feasible, the building will be demolished. This phase of work also addresses the contaminated ground surface in the asphalt paved areas.

16. Work Plan and Implementation

Within ten (10) days after EPA approval of Respondents' proposed contractor and project manager, the Respondents shall submit to EPA for approval a Phase One Work Plan for performing the removal action set forth in Paragraph 15 and the attached Scope of Work. The Phase One Work Plan shall provide a description of, and an expeditious schedule for, the action required by this Order and the attached Scope of Work.

17. EPA may approve, disapprove, require revisions to, or modify the Phase One Work

Plan. If EPA requires revisions, Respondents shall submit a revised Phase One Work Plan within two (2) days of receipt of EPA's notification of the required revisions. Respondents shall implement the plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Phase One Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least forty-eight (48) hours prior to performing any on-Site work pursuant to the EPA approved Work Plan. Respondents shall not commence or undertake any removal actions at the Site without prior EPA approval. Phase One Work shall commence within five (5) days after EPA approval of the Phase One Work Plan.

18. Within thirty (30) days after EPA approval of the Phase One Work Plan, the Respondents shall submit to EPA for approval a Phase Two Work Plan for performing the removal action set forth in paragraph 15 and the attached Scope of Work. The Phase Two Work Plan shall provide a description of, and an expeditious schedule for, the action required by this Order and the attached Scope of Work.

19. EPA may approve, disapprove, require revisions to, or modify the Phase Two Work Plan. If EPA requires revisions, Respondents shall submit a revised Phase Two Work Plan within two (2) days of receipt of EPA's notification of the required revisions. Respondents shall implement the plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Phase Two Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least forty-eight (48) hours prior to performing any on-Site work pursuant to the EPA approved Work Plan. Respondents shall not commence or undertake any removal actions at the Site without prior EPA approval. Phase Two Work shall commence within five (5) days after EPA determines that Phase One Work is complete or within five (5) days after EPA approves the Phase Two Work Plan, whichever occurs last.

20. Within thirty (30) days after EPA approval of the Phase Two Work Plan, the Respondents shall submit to EPA for approval a Phase Three Work Plan for performing the removal action set forth in paragraph 15 and the attached Scope of Work. The Phase Three Work Plan shall provide a description of, and an expeditious schedule for, the action required by this Order and the attached Scope of Work.

21. EPA may approve, disapprove, require revisions to, or modify the Phase Three Work Plan. If EPA requires revisions, Respondents shall submit a revised Phase Three Work Plan within two (2) days of receipt of EPA's notification of the required revisions. Respondents shall implement the plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Phase Three Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least forty-eight (48) hours prior to performing any on-Site work pursuant to the EPA approved Work Plan. Respondents shall not commence or undertake any removal actions at the Site without prior EPA approval. Phase Three Work shall commence within five (5) days after EPA determines that Phase Two Work is complete or within five (5) days after EPA approves the Phase Three Work Plan, whichever occurs last.



**22. Health and Safety Plan**

Within three (3) days after Respondents provide financial assurance under Section IX of this Order, the Respondents shall submit for EPA review and comment a Health and Safety Plan that ensures the protection of the public health and safety during performance of on-Site work under this Order. The Health and Safety Plan must be prepared in accordance with "EPA's Superfund Standard Operating Safety Guide," dated June 1992, and comply with all current Occupational Safety and Health Administration regulations applicable to Hazardous Waste Operations and Emergency Response, 29 C.F.R. Part 1910. Respondents shall incorporate all changes to the Health and Safety Plan recommended by EPA and implement the Health and Safety Plan throughout the performance of the removal action.

**23. Quality Assurance and Sampling**

All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondents shall use the following documents as appropriate as guidance for QA/QC and sampling: "EPA Guidance for Quality Assurance Project Plans (EPA QA/G-5)"; "Preparation of a U.S. EPA Region 9 Field Sample Plan for EPA-Lead Superfund Projects (Document Control No.: 9QA-05-93)"; and "Guidance for the Data Quality Objectives Process (EPA QA/G-4)."

24. Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for quality-assurance monitoring. Respondents shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

25. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents while performing actions under this Order. Respondents shall notify EPA not less than two (2) days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

**26. Final Report**

Within thirty (30) days after completion of all removal actions required under this Order, the Respondents shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Order. The final report shall conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The final report shall include a good faith estimate of total costs or statement of actual costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a person who supervised or directed the preparation of that

report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Copies of the Final Report also shall be sent to:

Robert Grego  
California Department of Health Services  
Radiologic Health Branch (MS 7610)  
P.O. Box 997414  
Sacramento, CA 95899-7414

and

Kathleen Kaufman  
Los Angeles Department of Health Services  
Radiation Management Program  
3530 Wilshire Blvd.  
Los Angeles, CA 90010

27. Access to Property and Information

Respondents shall provide and/or obtain access to the Site and off-Site areas to which access is necessary to implement this Order, and provide access to all records and documentation related to the conditions at the Site and the action conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, and representatives. These individuals shall be permitted to move freely at the Site and appropriate off-Site areas in order to conduct actions which EPA determines to be necessary. Respondents shall submit to EPA, upon receipt, the results of all sampling or tests and all other data generated by Respondents' contractors or on the Respondents' behalf during implementation of this Order.

28. Where action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use their best efforts to obtain all necessary access agreements within three (3) days after Respondents provide financial assurance under Section IX of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the removal actions described herein, using such means as EPA deems appropriate. EPA reserves the right to seek reimbursement from Respondents for all costs and attorney's fees incurred by the United States in obtaining access for Respondents.

**29. Record Retention, Documentation, Availability of Information**

Respondents shall preserve all documents and information relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for four years following completion of the removal actions required by this Order. At the end of this four year period and 30 days before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the four year period at the written request of EPA.

30. Respondents may assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondents.

**31. Off-Site Shipments**

All hazardous substances, pollutants or contaminants removed off-Site pursuant to this Order for treatment, storage, or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with 42 U.S.C. § 9621(d)(3) and the EPA "Procedures for planning and implementing off-site response actions," promulgated at 40 C.F.R. Part 300.440.

**32. Compliance With Other Laws**

Respondents shall undertake all actions required by this Order in accordance with the requirements of all applicable local, state, and federal laws and regulations unless an exemption from such requirements is specifically provided under CERCLA or unless the Respondents obtain a variance or exemption from the appropriate governmental authority.

**33. Emergency Response and Notification of Releases**

If any incident, or change in Site conditions, during the actions conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action. The Respondents shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents also shall immediately notify the OSC of the incident or Site conditions. If Respondents fail to take action, then EPA may respond to the release or endangerment and reserve the right to pursue cost recovery.

34. In addition, in the event of any release of a hazardous substance, Respondents shall immediately notify EPA Region 9 Emergency Response Center at (800) 300-2193 or the National Response Center at (800) 424-8802. Respondents shall submit a written report to EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, not in lieu

of, reporting under CERCLA Section 103(c) and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. Sections 11001 et seq.

## **VII. AUTHORITY OF THE EPA ON-SCENE COORDINATOR**

35. The OSC shall be responsible for overseeing the proper and complete implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, 40 C.F.R. § 300.120, including the authority to halt, conduct, or direct any action required by this Order, or to direct any other removal action undertaken by EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

36. EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. EPA shall notify the Respondents, and Respondents shall notify EPA, two (2) days before such a change is made. Notification may initially be made orally, but shall be followed promptly by written notice.

## **VIII. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE**

37. Violation of any provision of this Order may subject Respondents to civil penalties of up to twenty-seven thousand five hundred dollars (\$27,500) per violation per day, as provided in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. § 9604, or may seek judicial enforcement of this Order pursuant to section 106 of CERCLA, 42 U.S.C. § 9606.

## **IX. ASSURANCE OF ABILITY TO COMPLETE WORK**

38. Respondents shall demonstrate their ability to complete the Work required by this Order and to pay all claims that arise from the performance of the Work by obtaining and presenting to EPA within five (5) working days after the Effective Date of this Order, one of the following: (1) a performance bond; (2) a letter of credit; (3) a guarantee by a third party; or (4) internal financial information to allow EPA to determine that Respondents have sufficient assets available to perform the Work. Respondents shall demonstrate financial assurance in an amount no less than five million dollars (\$5,000,000). If Respondents seek to demonstrate ability to complete the required Work by means of internal financial information, or by guarantee of a third party, they shall re-submit such information annually, on the anniversary of the effective date of this Order. If EPA determines that such financial information is inadequate, Respondents shall, within two (2) days after receipt of EPA's notice of determination, obtain and present to EPA for approval one of the other three forms of financial assurance listed above.

## **X. REIMBURSEMENT OF OVERSIGHT COSTS**

39. Respondents shall reimburse EPA, on written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order, unless otherwise exempted from this requirement by federal law. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. Respondents shall, within thirty (30) days of receipt of the bill, remit by cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Attention: Region 9 Receivables  
Preservation Aviation Site  
P.O. Box 371099M  
Pittsburgh, PA 15251

Respondents shall send a cover letter with any check and the letter shall identify the Preservation Aviation Site by name and make reference to this Order, including the EPA docket number. Respondents shall send notification of any amount paid, including a photocopy of the check, simultaneously to the EPA OSC.

40. Interest at the rate established under section 107(a) of CERCLA shall begin to accrue on the unpaid balance from the day of the original demand notwithstanding any dispute or objection to any portion of the costs.

## **XI. RESERVATION OF RIGHTS**

41. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law. EPA reserves the right to bring an action against Respondents under sections 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order or the Site and not reimbursed by Respondents.

## **XII. OTHER CLAIMS**

42. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by the Respondents

or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order.

43. This Order does not constitute a pre-authorization of funds under section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

44. Nothing in this Order shall constitute a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including, but not limited to, any claims of the United States for costs, damages and interest under section 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a).

### **XIII. MODIFICATIONS**

45. In the event of unanticipated or changed circumstances at the Site, Respondents shall notify the EPA OSC by telephone within twenty-four (24) hours of discovery of the unanticipated or changed circumstances. This verbal notification shall be followed by written notification postmarked no later than within three (3) days of discovery of the unanticipated or changed circumstances.

46. EPA may determine that in addition to tasks addressed herein, additional work may be required to address the unanticipated or changed circumstances referred to in Paragraph 45. Where consistent with Section 106(a) of CERCLA, EPA may direct, as an amendment to this Order, that Respondents perform these tasks in addition to those required herein. Respondents shall implement the additional tasks that EPA identifies. The additional work shall be completed according to the standards, specifications, and schedules set forth by EPA in any modifications to this Order.

47. Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing soon thereafter; provided, however, that the effective date of the modification shall be the date of the OSC's oral direction.

48. If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis.

49. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

### **XIV. DELAY IN PERFORMANCE**

50. Any delay in the performance of any requirement of this Order that, in the EPA's sole

judgment and discretion, is not properly justified by Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of any requirement of this Order shall not affect any other obligation of Respondents under the terms and conditions of this Order.

51. Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's OSC within twenty-four (24) hours after Respondents first knew or should have known that a delay might occur. The Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within three (3) days after notifying EPA by telephone, the Respondents shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why the Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not justifications for any delay in performance.

52. If Respondents are unable to perform any activity or submit any document within the time required under this Order, the Respondents may, prior to the expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay. The submission of an extension request shall not itself affect or extend the time to perform any of Respondents' obligations under this Order.

#### **XV. NOTICE OF COMPLETION**

53. When EPA determines, after EPA's review of the Final Report, that all removal actions have been fully performed in accordance with this Order, EPA will provide notice to the Respondents. If EPA determines that any removal actions have not been completed in accordance with this Order, EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Order.

#### **XVI. ACCESS TO ADMINISTRATIVE RECORD**

54. The Administrative Record supporting these removal actions is available for review at EPA's Superfund Records Center located at 75 Hawthorne Street, San Francisco, California, and may be contacted at (415) 536-2000.

#### **XVII. OPPORTUNITY TO CONFER**

55. Within three (3) days after receiving this Order, Respondents may request a conference with EPA. Any such conference shall be held within two (2) days after the request unless extended by agreement of the parties. At any conference held pursuant to the request,

Respondents may appear in person or be represented by an attorney or other representative.

56. If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments in writing to EPA within two (2) days after the effective date of this Order. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference, or any written submittal under this paragraph, shall be directed to Assistant Regional Counsel at the following address:

J. Andrew Helmlinger  
US EPA  
Office of Regional Counsel (ORC-3)  
75 Hawthorne Street  
San Francisco, California 94105  
415-972-3904  
helmlinger.andrew@epa.gov

#### **XVIII. INSURANCE**

57. Respondents shall submit to EPA a certification that Respondents or their contractor and subcontractor have adequate insurance coverage or other ability, subject to approval of EPA, to compensate for liabilities for injuries or damages to persons or property that may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Adequate insurance shall include comprehensive general liability insurance and automobile insurance with limits of one million dollars, combined single limit. If the Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then the Respondents need provide only that portion of the insurance described above that is not maintained by such contractor or subcontractor. Respondents shall ensure that such insurance or indemnification is maintained for the duration of performance of the Work required by this Order. Respondents shall ensure that the United States is named as an additional insured on any such insurance policies.

#### **XIX. SEVERABILITY**

58. If a court issues an order that invalidates any provision of this Order or finds that Respondents has sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.



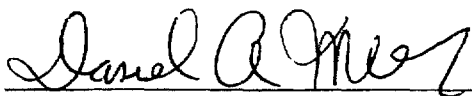
**XX. EFFECTIVE DATE**

59. This Order shall be effective three (3) days after any Respondent receives the Order, unless a conference is requested as provided herein. If such a conference is requested, this Order shall be effective the second (2nd) day following the day of such conference unless modified in writing by EPA.

Unilateral Administrative Order 9-2004-0030

IT IS SO ORDERED:

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

By: 

Date: 26 August 2009

Daniel A. Meer  
Branch Chief, Response, Planning and Assessment Branch  
EPA, Region 9

**EPA Region 9 Contacts:**

**Robert Wise, On Scene Coordinator**  
2250 Obispo Ave., Suite 101  
Signal Hill, CA 90755  
(818) 623-0355  
wise.robert@epa.gov

**J. Andrew Helmlinger, Assistant Regional Counsel**  
Office of Regional Counsel, ORC-3  
EPA, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105  
(415) 972-3904

**John Jaros, Civil Investigator**  
Emergency Response Section, SFD-9-2  
EPA, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105  
(415) 972-3058

**APPENDIX A**  
**Unilateral Administrative Order 9-2003-0030**  
**Preservation Aviation**

1. Joan Gregg  
11647 Huston Street  
North Hollywood, CA 91601
2. Riverton Properties Inc.  
Joan Gregg, President  
11647 Huston Street  
North Hollywood, CA 91601
3. Riverton Properties Inc.  
James G. Morris, Registered Agent  
13400 Riverside Drive  
Sherman Oaks, CA 91423
4. Jeffrey Pearson  
5803 Pamela Kay Lane  
Anaheim, CA 92807
5. Preservation Aviation  
Jeffrey Pearson, Registered Agent  
5803 Pamela Kay Lane  
Anaheim, CA 92807

**Preservation Aviation Site**  
**Unilateral Administrative Order 9-2004-0030**  
**Scope of Work**

**Phase One – North and South Yards**

Respondents must provide a work plan to remove hazardous substances in the north yard and south yard between 10800 Burbank Blvd. and 5543 Riverton Ave. within 10 working days of providing documents required in Paragraph 12 of the Order. The Phase One Work Plan must include the following components:

- a. Health and Safety Plan in compliance with 29 C.F.R. § 1910.120(b)(4).
- b. Site Characterization Plan in compliance with 29 C.F.R. § 1910.120(c) and MARSSIM (NUREG-1575). The Site Characterization Plan must include protocols for creating an inventory of the contents of the north and south yards, differentiating between items containing radium and those contaminated with radium or its daughter progeny in relation to the action levels for radium as described NUREG 1.86, and determining whether other hazardous substances are present. The contents of the semi-trailer and the shed in the north yard also must be assessed and inventoried as described above. Inside the semi-trailer and the shed must be assessed for structural radioactive contamination. The data from the site characterization must be sufficiently detailed to allow for the implementation of the Site Segregation Plan, below.
- c. Site Segregation Plan. The Segregation Plan must include protocols for segregating the radioactive, hazardous and solid waste streams for disposal. The plan must also describe protocols for determining free release of material following the guidelines set in NUREG 1.86. USEPA will consult with the CA DHS in reviewing the Site Segregation Plan.
- d. Air Surveillance Quality Assurance Project Plan (Air QAPP) that is consistent with: "USEPA Guidance for Quality Assurance Project Plans" (EPA QA/G-5); "Preparation of a USEPA Region 9 Field Sample Plan for USEPA-Lead Superfund Projects" (Document Control No. 9QA-05-93); and "Guidance for the Data Quality Objectives Process" (EPAQA/G-4). The Air QAPP must define air sampling protocols for worker safety and community safety, and must include action levels for worker and community health and safety. The target contaminants are total gross activity, and total radium and radon (including daughters).
- e. Radioactive and Hazardous Waste Disposal Plan that complies with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and the USEPA "Revised Procedures for Implementing off-Site Response Actions" (OSWER Directive 98343.11, November 13, 1987). The Radioactive and Hazardous Waste Disposal Plan must indicate the treatment, storage and disposal facilities for the disposal of all radioactive, hazardous and solid waste

generated during removal. The plan also must address how waste will be transported to the facility and include proof that the transporter is properly licensed for transport of radioactive or hazardous waste.

Documents must be reviewed and approved by USEPA or its representative prior to the commencement of work. Implementation of the Phase One Work Plan must begin within 5 working days of receiving USEPA's approval of the Phase One Work Plan.

**Phase Two – North Building (10800 Burbank Blvd.)**

Respondents must provide a work plan to remove hazardous substances from the north building located at 10800 Burbank Boulevard within 30 days of commencing work pursuant to the Phase One Work Plan. The Phase Two Work Plan must include the following:

- a. Items a, d, and e of the Phase One Work Plan shall be amended for to accommodate Phase Two. Items a and d additionally must include strategy for management of radon in the structure to ensure compliance with 10 C.F.R. § 20.1301.
- b. Phase Two Site Characterization Plan in compliance with 29 C.F.R. § 1910.120(c) and MARSSIM (NUREG-1575): The Phase Two Site Characterization Plan must include assessment of items within the warehouse and the assessment of structural contamination within the warehouse. The Phase Two Site Characterization Plan must include protocols for creating an inventory of the contents inside the building, differentiating between items containing radium and those contaminated with radium or its daughter progeny in relation to the action levels for radium as described in NUREG 1.86, and determining whether other hazardous substances are present. The data from the site characterization must be sufficiently detailed to allow for the implementation of the Phase Two Site Segregation Plan, below. The Phase Two Site Characterization Plan must also include an assessment of the structural contamination within the north building. This characterization should address radioactive contamination as well as lead paint and asbestos issues. Sufficient data must be collected to make recommendations for decontamination and decommissioning of the structure.
- c. Phase Two Site Segregation Plan: The Phase Two Site Segregation Plan must include protocols for segregating the radioactive, hazardous and solid waste streams for disposal. The plan must also describe protocols for determining free release of material following the guidelines set in NUREG 1.86. USEPA will consult with the CA DHS in reviewing the Phase Two Site Segregation Plan.
- d. Decontamination and Decommissioning (D&D) Plan in compliance with NUREG 1.86 and 10 C.F.R. Part 20. The Phase Two D&D Plan must describe how the building will be decontaminated. If the building cannot be decontaminated sufficiently to allow for free release of the building without use restrictions, then the plan must address the demolition of the structure including dust control measures to prevent migration of contaminants into the community. The Phase Two D&D Plan must address how contaminated and non-contaminated building materials will be segregated. It also must address how issues such as contaminated lead paint or contaminated asbestos will be addressed. The Phase Two

D&D Plan is not due until 30 days after the completion of the structural assessment pursuant to the Phase Two Site Characterization Plan.

Documents must be reviewed and approved by USEPA or its representative prior to the commencement of work.

Implementation of the Phase Two Work Plan must commence within 5 days of complete implementation of the Phase One Work Plan or the approval of the Phase Two Work Plan, whichever is later.

**Phase Three – South Building (5543 Riverton Ave.) and Asphalt Surface**

Respondents must provide a work plan to remove hazardous substances from the south building located at 5543 Riverton Avenue and the asphalt ground surface in the open yards within 30 days of USEPA's approval of the Phase Two Work Plan. The Phase Three Work Plan must include the following:

- a. Items a, d, and e of the Phase One Work Plan shall be amended to accommodate Phase Three.
- b. Phase Three Site Characterization Plan in compliance with 29 C.F.R. § 1910.120(c) and MARSSIM (NUREG-1575) for the structure located at 5543 Riverton Ave. and the asphalt surfaces of the open yards. The Phase Three Site Characterization Plan also must include an assessment of the structural contamination within the south building. This characterization should address radioactive contamination as well as lead paint and asbestos issues. Sufficient data must be collected to make recommendations for decontamination and decommissioning of the structure. The Phase Three Site Characterization Plan also must address the assessment of the asphalt surface of the open yard between 10800 Burbank Blvd. and 5543 Riverton Ave, and determine if the asphalt surface is contaminated above the guidelines promulgated under NUREG 1.86.
- c. Soil Assessment Quality Assurance Project Plan (Soil QAPP) that is consistent with: "USEPA Guidance for Quality Assurance Project Plans" (EPA QA/G-5); "Preparation of a USEPA Region 9 Field Sample Plan for USEPA-Lead Superfund Projects" (Document Control No. 9QA-05-93); and "Guidance for the Data Quality Objectives Process" (EPAQA/G-4). The Soil QAPP must determine if soil contamination exists, and must include action levels for the removal of contaminated soil. Action levels must be consistent with USEPA Region Preliminary Remedial Goals (PRGs). The Air QAPP must be amended and implemented to provide air surveillance during any soil removal activities.
- d. Phase Three D&D Plan for the south building in compliance with NUREG 1.86 and 10 C.F.R. Part 20. The Phase Three D&D Plan must describe how the south building will be decontaminated. If the building cannot be decontaminated sufficiently to allow for free release of the building without use restrictions then the plan must address the demolition of the structure including dust control measures to prevent migration of contaminants into the community. The Phase Three D&D Plan must address how contaminated and non-

contaminated building materials will be segregated. It also must address how issues such as contaminated lead paint or contaminated asbestos will be addressed. If the structure is to be demolished, the Air QAPP must be amended to monitor the demolition process.

e. Soil Remediation Plan: The Soil Remediation Plan must address the remediation of contaminated asphalt and soil above the PRG. Contaminated soil above the PRG must be removed to a depth of three feet below ground surface (bgs). Soil contamination greater than three feet bgs may be left in place, however a proper deed restriction prohibiting excavations greater than three feet bgs must be filed with Los Angeles County.

Documents must be reviewed and approved by USEPA or their representative prior to the commencement of work.

Implementation of the Phase Three Work Plan must commence within 5 days of complete implementation of the Phase Two Work Plan or the approval of the Phase Three Work Plan, whichever is later.